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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 09/588,027   | 06/05/2000  | Martin Cieslak       | CISCP 139           | 8527             |
| 22434  | 7590        | 07/25/2006           | EXAMINER            |                  |
| BEYER WEAVER & THOMAS, LLP<br>P.O. BOX 70250<br>OAKLAND, CA 94612-0250 |             |                      | KANG, PAUL H        |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 2144                |                  |

DATE MAILED: 07/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                      |                                       |  |
|------------------------------|--------------------------------------|---------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>09/588,027 | <b>Applicant(s)</b><br>CIESLAK ET AL. |  |
|                              | <b>Examiner</b><br>Paul H. Kang      | <b>Art Unit</b><br>2141               |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 01 May 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 June 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-11 and 16-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heddaya et al., US Pat. No. 6,205,481 in view of Balassanian, US Pat. Application No. 2005/0021857 A1.**

2. As to claims 1, 16, 20, 21, 22 and 23, Heddaya teaches the invention substantially as claimed. Heddaya teaches a computer-implemented method for routing data traffic in a network having a plurality of network layers including an application layer, physical, data link, and network layers, the method comprising:

receiving redirected data traffic at a network cache (Heddaya, col. 3, line 23 – col. 5, line 22).

However, Heddaya does not explicitly teach selecting one of a plurality of routing options for the data traffic with reference to information associated with the network cache, the application layer, or outside of the physical, data link, and network layers; and routing the data traffic according to the selected routing option.

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In the same field of endeavor, Balassanian teaches routing based on information associated with the network cache, the application layer, or outside of the physical, data link, and network layers; and routing the data traffic according to the selected routing option (Balassanian, paragraph 0040-0045).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have incorporated the method of routing based on information in the application layer, such as document type (e.g. jpg, htm, gif), as taught by Balassanian, into the networked cache system of Heddaya for the purpose of routing data based on data content in addition to destination addresses.

3. As to claim 2, Heddaya-Balassanian teaches the method wherein the data traffic has been redirected from an original destination according to a caching protocol (Heddaya, col. 3, line 23 – col. 5, line 22).

4. As to claim 3, Heddaya-Balassanian teaches the method wherein the data traffic comprises a request from a source platform to a destination platform (Heddaya, col. 3, line 23 – col. 5, line 22).

5. As to claim 4, Heddaya-Balassanian teaches the method wherein the data traffic comprises a response to a request, the request being from a source platform to a destination platform (Heddaya, col. 3, line 23 – col. 5, line 22).

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6. As to claim 5, Heddaya-Balassanian teaches the method further comprising parsing the information associated with the application layer (Balassanian, paragraph 0040-0045).

7. As to claims 6 and 7, Heddaya-Balassanian teaches the method wherein the information comprises a URL including suffixes associated with the data traffic (Heddaya, col. 5, line 60 – col. 6, line 50; Balassanian, paragraph 0040-0045).

8. As to claims 8-10, Heddaya-Balassanian teaches the method wherein parsing the information comprises determining whether the suffix associated with the URL indicates one of a plurality of MIME types comprising \*.gif, \*.jpg, \*.pdf, \*.mpX, \*.htm, and ascii or binary data objects (Balassanian, paragraph 0040-0045).

9. As to claim 11, Heddaya-Balassanian teaches the method wherein selecting one of the plurality of options comprises setting one of a plurality of socket options for the data traffic (Balassanian, paragraph 0034-0035).

10. As to claims 17 and 18, Heddaya-Balassanian teaches the method wherein the information relate to whether a data object associated with the data traffic is cacheable, and comprises a forced load (Heddaya, col. 5, line 60 – col. 6, line 50; Balassanian, paragraph 0040-0045).

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11. As to claim 19, Heddaya-Balassanian teaches a computer program product comprising a computer readable medium having computer program instructions stored therein for implementing the method of claim 16 (Heddaya, col. 5, line 60 – col. 6, line 50; Balassanian, paragraph 0040-0045).

12. As to claims 24 and 25, Heddaya-Balassanian teaches a method wherein the selecting of the plurality of routing options for the data traffic is based on relative network resource expense of data traffic types or wherein the application layer information correlates to a relative size of an object that the request seeks (Heddaya, col. 7, line 64 – col. 8, line 49).

**13. Claims 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heddaya-Balassanian as applied above, and further in view of Dillon, US Pat. No. 6,016,388.**

14. As to claim 12, Heddaya-Balassanian teach the invention substantially as claimed. However, Heddaya-Balassanian do not teach the method wherein the plurality of socket options include a first link and a second link, the first link socket option being selected for a first type of a data traffic and the second link socket option being selected for a second type of data traffic.

In the same field of endeavor, Dillon teaches said method wherein the plurality of socket options include a first link and a second link, the first link socket option being selected for a first type of a data traffic and the second link socket option being selected for a second type of data traffic (Dillon, col. 1, line 14 – col. 2, line 32).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have incorporated socket options as taught by Dillon into the system of Heddaya-Balassanian for the purpose of enabling a more efficient use and application of the various communication channels.

15. As to claim 13, Heddaya-Balassanian-Dillon teaches the method wherein the first and second links comprise land and satellite links, respectively (Dillon, col. 1, line 14 – col. 2, line 32).

16. As to claim 14, Heddaya-Balassanian-Dillon teaches the method wherein the first and second types of data comprise ascii and binary data, respectively (Dillon, col. 1, line 14 – col. 2, line 32).

17. As to claim 15, Heddaya-Balassanian-Dillon teaches a computer program product comprising a computer readable medium having computer program instructions stored therein for implementing the method of claim 1 (Heddaya, col. 3, line 23 – col. 5, line 22; Balassanian, paragraph 0040-0045).

### ***Response to Arguments***

18. Applicant's arguments filed May 1, 2006 have been fully considered but they are not persuasive. The applicants argued in substance that:

“The examiner has not provided any motivation whatsoever to combine the teachings of *Heddaya* et al. with *Balassanian*, and is inappropriately relying on hindsight to obviate the present invention...In fact, *Heddaya* et al. teaches away from combining or modifying the teachings of the cited art...There would be no motivation to implement a complex technique (i.e., mapping algorithm of *Balassanian*) for determining/selecting the routing of the request message packet when an intended (i.e. predetermined) destination path is already employed.” See Remarks, page 8, line 33 – page 9, line 14.

The examiner respectfully disagrees. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Further, in response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, both teachings of *Heddaya* and *Balassanian* are in the same field of endeavor. *Heddaya* teaches content routing among networked cache servers over a TCP/IP



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protocol. Balassanian also teaches content routing over TCP/IP protocol. However, Balassanian recognizes a need on a growing global communications network, such as that of Heddaya, to route data directly to a particular resource on a remote computer. See Balassanian, paragraphs 0007-0008. The artisan of ordinary skill in the art at the time of the invention would have recognized the benefit of routing data to a particular resource, as taught by Balassanian, and incorporate that into a system of routing data on a distributed network of Heddaya. Both Heddaya and Balassanian aim to solve the problem of efficient data routing on a distributed computer network.

### *Conclusion*

19. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

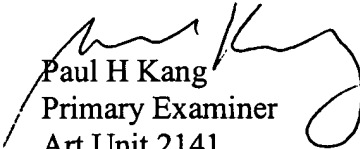
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul H. Kang whose telephone number is (571) 272-3882. The examiner can normally be reached on 9 hour flex. First Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on (571) 272-3880. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Paul H Kang  
Primary Examiner  
Art Unit 2141